

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

In re Apple & ATTM Antitrust Litigation NO. C 07-05152 JW

**ORDER VACATING CASE
MANAGEMENT CONFERENCE AND
STAYING PROCEEDINGS PENDING
THE SUPREME COURT'S DECISION IN
AT&T MOBILITY v. CONCEPTION**

This case is scheduled for a Case Management Conference on December 13, 2010. Pursuant to the Federal Rules of Civil Procedure and Local Rules of this Court, the parties conferred and duly submitted a Joint Case Management Statement and Proposed Order. (hereafter, "Joint Statement," Docket Item No. 498.) In the Joint Statement, Defendants renewed their request that the Court stay merits-based discovery pending the Supreme Court's decision in AT&T v. Conception, 130 S. Ct. 3322 (2010).

On November 20, 2010, the Court issued an Order Continuing Case Management Conference that stayed the case until December 13, 2010 when the Court was scheduled to consider AT&T's Motion to Stay Proceedings in an unrelated case. (hereafter, "Order," Docket Item No. 497.) On December 9, 2010, the Court issued an Order in In re Apple iPhone 3G Products Liability Litigation that stayed proceedings pending the Supreme Court's decision in Conception.¹ The Court found that a stay was warranted because the decision in Conception could likely simplify the legal questions and conserve judicial resources. (Stay Order at 3.) In addition, any prejudice against the

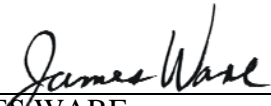
¹ (See No. C 09-2405-JW, Order Granting Defendants' Motion to Stay Proceedings; Granting Plaintiffs' Motion for Leave to File Third Amended Master Administrative Complaint; Denying All Other Motions as Premature, hereafter, "Stay Order," Docket Item No. 238.)

1 plaintiffs as a result of delay was outweighed by the potential prejudice against defendants in
 2 requiring further litigation of claims that may be subject to arbitration. (Id.) Further, the Court held
 3 that any stay must apply equally to both Defendant ATTM and Defendant Apple. (Stay Order at 4.)

4 Consistent with the Court's Stay Order in In re Apple iPhone 3G Products Liability
 5 Litigation, a stay in this case will also simplify the legal issues and conserve judicial resources. The
 6 Court notes that the decision to stay the case is consistent with decisions of several courts that have
 7 issued stays pending the Supreme Court's final decision in Conception.²

8 Accordingly, the Case Management Conference is VACATED and the case is STAYED
 9 pending the Supreme Court's final decision in Conception. Within **14 days** of the Supreme Court's
 10 decision, the parties shall file a Joint Status Report as to its effect on the current dispute.

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 12 Dated: December 9, 2010


 13 JAMES WARE
 14 United States District Judge

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 23 ² See Knudtson v. AT&T Mobility LLC, No. 10-35242 (9th Cir. Jun. 10, 2010) (staying
 24 appeal pending a decision in Conception); Coneff v. AT&T Corp., No. 09-35563 (9th Cir. Jun. 2,
 25 2010) (same); McArdle v. AT&T Mobility LLC, No. 09-1117, 2010 WL 2867305 (N.D. Cal. Jul.
 26 20, 2010) (staying action pending final action in Conception); Kaplan v. AT&T Mobility, LLC, No.
 27 10-3594, 2010 WL 4774790 (C.D. Cal. Sep. 27, 2010) (same); Gaspar v. AT&T Mobility, LLC, No.
 10-2136, 2010 WL 4643277 (C.D. Cal. Jun. 28, 2010) (same); Carney v. Verizon Wireless Telecom.
Inc., No. 09-1854, 2010 WL 3058106 (S.D. Cal. Aug. 2, 2010) (same); Kaltwasser v. Cingular
Wireless LLC, No. 07-0411, 2010 WL 2557379 (N.D. Cal. Jun. 21, 2010) (class certification
 determination postponed pending the ruling in Conception).

THIS IS TO CERTIFY THAT COPIES OF THIS ORDER HAVE BEEN DELIVERED TO:

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Dated: December 9, 2010

Richard W. Wieking, Clerk

By: /s/ JW Chambers

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